



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**
Division of Health Service Regulation

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
MARK PAYNE • Director

RESPONSE REQUIRED

July 13, 2018

Jim Swann
3390 Dunn Road
Eastover, NC 28312

Conditional Approval

Project ID #: M-11502-18
Facility: Fresenius Kidney Care Rockfish
Project Description: Change of scope for Project I.D. #M-11286-17 to develop FKC Rockfish as a 20-station dialysis facility by merging with the FKC Hope Mills project, CON Project ID #M-11344-17
County: Cumberland
FID #: 170017

Dear Mr. Swann:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) has conditionally approved the above referenced certificate of need application. This decision was made after a review of the applications submitted for this cycle and after consideration of the Certificate of Need Law, N.C. Gen. Stat. §131E-175 et. seq. and regulations promulgated there under, the State Medical Facilities Plan, and other applicable information. Attached to this letter are the required findings made with respect to your application. The applicant shall not proceed with the construction, offering or development of this project until the certificate of need is issued. Further, the Agency shall not issue the certificate of need until all applicable conditions of approval have been met pursuant to N.C. Gen. Stat. §131E-187(a). The conditions are as follows:

- 1. Bio-Medical Applications of North Carolina, Inc., d/b/a Fresenius Care Rockfish shall materially comply with all representations made in the certificate of need application.**
- 2. Pursuant to Policy ESRD-2, Bio-Medical Applications of North Carolina, Inc. shall relocate no more than ten dialysis stations from FMC Dialysis Services of South Ramsey, no more than five dialysis stations from FMC Services of West Fayetteville, and no more than five stations from FMC Dialysis Services of North Ramsey.**

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603
MAILING ADDRESS: 2704 Mail Service Center, Raleigh, NC 27699-2704
www.ncdhhs.gov/dhsr/ • TEL: 919-855-3873

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

3. **Bio-Medical Applications of North Carolina, Inc., d/b/a Fresenius Care Rockfish shall install plumbing and electrical wiring through the walls for no more than 20 dialysis stations, which shall include any isolation or home hemodialysis stations.**
4. **Bio-Medical Applications of North Carolina, Inc. shall take the necessary steps to decertify ten dialysis stations at FMC Dialysis Services of South Ramsey for a total of no more than 41 dialysis stations at FMC Dialysis Services of South Ramsey upon project completion.**
5. **Bio-Medical Applications of North Carolina, Inc. shall take the necessary steps to decertify five dialysis stations at FMC Services of West Fayetteville for a total of no more than 40 dialysis stations at FMC Services of West Fayetteville upon completion of this project and Project ID# M-11314-17 (add five dialysis stations).**
6. **Bio-Medical Applications of North Carolina, Inc. shall take the necessary steps to decertify five dialysis stations at FMC Dialysis Services of North Ramsey for a total of no more than 40 dialysis stations at FMC Dialysis Services of North Ramsey upon completion of this project and Project ID #M-11397-17 (add five dialysis stations).**
7. **Bio-Medical Applications of North Carolina, Inc. shall relinquish the certificate of need for Project ID #M-11344-17 to the Agency upon completion of this project.**
8. **Bio-Medical Applications of North Carolina, Inc., d/b/a Fresenius Kidney Care Rockfish shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**

Response to the above conditions should be submitted to the Agency no later than 35 days from the date of the decision. Failure to respond within this time period may result in the Agency making a determination not to issue a certificate of need for the project referenced above.

The conditional approval is valid only for a capital expenditure of **\$594,049**. If a cost overrun occurs that exceeds the approved capital expenditure amount, a new certificate of need may be required as determined by N.C. Gen. Stat. §131E-176(16)(e).

The applicant should be aware that according to the Certificate of Need law any affected person shall have thirty (30) days after the date of decision to file a petition for a contested case on this approval. Further, if you are aggrieved by the conditions of the decision you may file a petition for a contested case hearing in accordance with N.C. Gen. Stat. §150B, Article 3, as amended. This petition must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina 27699-6714 within thirty (30) days of the date of this decision. [Note: Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to OAH Clerk's Office (919-431-3000).]

N.C. Gen. Stat. §150B-23 provides that a party filing a petition must also serve a copy of the petition on all parties to the petition. Therefore, if you file a petition for a contested case hearing, you must serve a copy of the petition on the Department of Health and Human Services by mailing a copy of your petition to:

Lisa G. Corbett
Department of Health and Human Services,
Office of Legal Affairs,
Adams Building – Room 154
2001 Mail Service Center
Raleigh, North Carolina, 27699-2001

It is requested that a copy of the petition also be served on the Agency.

The certificate of need will not be issued before the completion of this 30 day period ending **August 13, 2018**. If a contested case request is received within the thirty (30) day period, the certificate will not be issued until the appeal is resolved (10A NCAC 14C .0208).

The timetable for completion of the project is the timetable outlined in the certificate of need application, unless an adjustment has been made by the Agency because the review period was extended. The timetable for this project is as follows:

1. Financing Obtained _____ April 16, 2018
2. Drawings Completed _____ September 15, 2018
3. Construction/Renovation Contract(s) Executed _____ September 15, 2018
4. 25% of Construction/Renovation Completed
(25% of the cost is in place) _____ September 30, 2018
5. 50% of Construction/Renovation Completed _____ October 21, 2018
6. 75% of Construction/Renovation Completed _____ November 11, 2018
7. Construction/Renovation Completed _____ December 2, 2018
8. Equipment Ordered _____ October 17, 2018
9. Equipment Installed _____ December 1, 2018
10. Equipment Operational _____ December 11, 2018
11. Building/Space Occupied _____ December 11, 2018
12. Services Offered _____ December 31, 2018
13. Medicare and/or Medicaid Certification Obtained _____ December 31, 2018

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If the decision is appealed, the timetable set forth in this letter will be adjusted accordingly before the Certificate of Need is issued. Please contact this office if any clarification of this decision is required.

Please refer to the Project ID # and Facility ID # (FID) in all correspondence.

Sincerely,

Tanya S. Rupp
Project Analyst

Lisa Pittman
Assistant Chief,
Certificate of Need

Gloria C. Hale
Team Leader, Certificate of Need

Attachment

cc: Acute & Home Care Licensure & Certification Section, DHSR
Melinda Boyette, Administrative Assistant, Healthcare Planning, DHSR

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing notice of **conditional approval** on the following person by placing a copy in an official depository of the United States Postal Service in a postage-paid, first class envelope addressed as follows:

Jim Swann
3390 Dunn Road
Eastover, NC 28312

This the 13th day of July, 2018.

Tanya S. Rupp
Project Analyst, Certificate of Need